

THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF CAMPAIGN & POLITICAL FINANCE

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MICHAEL J. SULLIVAN  
DIRECTOR

February 29, 1996  
AO-96-06

George L. Reich  
North Andover REPTC  
284 Salem Street  
North Andover, MA 01845

Re: Person in the service

Dear Mr. Reich:

This letter is in response to your February 21, 1996, letter requesting an advisory opinion regarding your position as Chairman of the North Andover Conservation Commission.

Question: May you, as chairman of the North Andover Conservation Commission ("Commission") serve as treasurer of the local North Andover REPTC ("Committee")?

Answer: Yes, provided the Committee adopts a ban on contributions from public servants as discussed below.

Facts: You have stated that you are the Chairman of the North Andover Conservation Commission ("Commission"). Commission members are appointed by the Board of Selectmen and the Chair is elected by the Commission members. You are not compensated in any way for your services on the Commission. You have been asked to serve as treasurer of the North Andover Republican Town Committee ("Committee"). You wish to know what affect your service as a Commission member may have on your ability to serve as the Committee's treasurer.

Discussion: Section 15 of M.G.L. c. 55 states:

No officer, clerk or other person in the service of the commonwealth or of any county, city or town shall, directly or indirectly, give or deliver to an officer, clerk or person in said service, or to any councillor, member of the general court, alderman, councilman or commissioner, any money or other valuable thing on account of, or to be applied to, the promotion of any political object whatever.

Whether your fundraising activities are limited by Section 15 depends, in part, on the definition of "person in the service of the commonwealth." This office has previously advised that the phrase "was intended to include any elected, appointed or other person, regardless of compensation, who is providing significant public services to the commonwealth or one of its subdivisions or authorities." The office has also

stated that "the fact of official appointment or election to an office is an important, if not essential, criterion in determining whether someone is a 'person in the service' for purposes of section 15." See AO-92-01.

It is my understanding that you were appointed to the Commission by the Board of Selectmen. In that capacity, you provide significant public services to your community pursuant to law and, I assume, local ordinance. As chairman of the Commission, therefore, you would be a "person in the service" or public servant within the meaning of section 15.

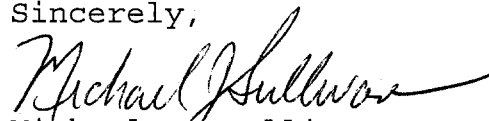
Most significantly, your position as a public servant would prevent any other public servant from giving or delivering a contribution<sup>1</sup> for the Committee, or any other political committee, to you. For this reason, we have consistently advised candidates and political committees that a public servant cannot be a treasurer of a political committee unless the committee adopts a policy of not accepting contributions from persons in the service. See AO-94-06, AO-92-16 and AO-88-18. The adoption of such a policy, of course, eliminates contributions from a substantial class of individuals, i.e. persons in the public service, who are often very active in local affairs and town party committees.<sup>2</sup>

In conclusion, as a person in the service, you may serve as a treasurer of the North Andover REPTC but only if the Committee adopts a ban on contributions from all other persons in the service. For your information, I have enclosed a copy of this office's brochure, "A Guide To Political Activity For State, County And Municipal Employees."

This opinion has been rendered solely on the basis of representations made in your letter and solely in the context of M.G.L. c.55.

Please do not hesitate to contact this office should you have additional questions about this or any other campaign finance matter.

Sincerely,

  
Michael J. Sullivan  
Director

MJS/cp  
Enclosure

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<sup>1</sup> The statute prohibits the delivery of "any money or other valuable thing on account of, or to be applied to, the promotion of any political object whatever." This language is, in fact, broader than, but also includes, the definition of contribution in M.G.L. c. 55, s. 1.

<sup>2</sup> Section 15 also precludes you from giving or delivering any money or other thing of value to another person in the service for political purposes.